

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

US INVESTIGATIONS SERVICES,
LLC,

Plaintiff,

v.

SUSAN CALLIHAN and
SARAH LEAANN BAUCOM,

Defendants.

)
)
)
)
)
)
)
)
)
)

2: 11-cv-0355

MEMORANDUM ORDER OF COURT

Presently before the Court is the MOTION TO COMPEL RE-DESIGNATION OF JUPITER DOCUMENTS filed by Plaintiff, US Investigations Services, LLC (Document No. 66), the Letter Response submitted on behalf of Jupiter Corporation (Document No. 67-1), and the REPLY TO LETTER filed by US Investigations Services, LLC (Document No. 67). For the reasons that follow, the Motion will be **GRANTED**.

On or about May 5, 2011, US Investigations Services, LLC (“USIS”) served a Subpoena To Produce Documents, Information, or Objects or to Permit Inspection of Premises in A Civil Action on non-party Jupiter Corporation (“Jupiter”). On June 16, 2011, Jupiter produced to USIS “on disc the first batch of Bates’ stamped documents responsive to the documents.” (Document No. 66-4, Exhibit C.) All of these documents were deemed by Jupiter to be “Confidential.” According to USIS, the disc contained 591 documents.

On July 5, 2011, Jupiter produced to USIS a second disc of responsive documents, Bates Numbers JUP 0059201754. According to USIS, this disc contained 1,163 pages of responsive documents. Jupiter advised that “this is the total production, with one exception. We have determined that there are numerous documents of source sensitive information that is protected

by federal law. . . They are not privileged, but they are protected. Thus, we will provide you a log within a week of those documents. . . .” (Document No. 66-5, Exhibit D.)

On August 2, 2011, Jupiter changed its position on the “protected” documents and produced three (3) additional discs. According to Jupiter, they “did not hold back any responsive documents (we initially intended to hold back certain documents and provide you with a log), but we believe the existence of the protective order is sufficient. Thus, all were produced.”

(Document No. 66-6, Exhibit E.) Two of the discs contained documents which were on Sarah Baucom’s personal computer. The documents on the first disc were classified by Jupiter as non-confidential documents, Bates Nos. SARAH 00001-00606. The documents on the second disc were classified by Jupiter as Confidential and Attorney Eyes Only, Bates Nos. SARAH 00607-03099.

The third disc produced by Jupiter contained Jupiter documents which were classified by Jupiter as Confidential, Attorney Eyes Only (Bates Nos. JUP 01755-04171.)

On August 17, 2011, USIS informed Jupiter that it did not agree that a certain number of documents were properly classified as “Attorney Eyes Only” and requested that Jupiter “clarify as to their categorization and/or redesignate” the following documents:

SARAH 00821-00832	SARAH 01859-02038
SARAH 00833-00855	SARAH 02079-02107
SARAH 00862-00875	SARAH 02151-02154
SARAH 00953-01007	SARAH 02213-02318
SARAH 01022-01023	SARAH 02329-02371
SARAH 01086-01135	SARAH 02381-02433
SARAH 011203-01232	SARAH 02493-02499
SARAH 01269-01317	SARAH 02500-02520
SARAH 01322-01379	SARAH 02558-02560
SARAH 01384-01401	SARAH 02781-02782
SARAH 01402-01419	SARAH 02813-02835
SARAH 01472-01493	SARAH 02836-02851
SARAH 01796-01858	SARAH 02933-03099

and

JUP 01766-01776	JUP 02406-02439
JUP 01787-01790	JUP 02452-02485
JUP 01797-01799	JUP 02497-02544
JUP 01829-01849	JUP 02545-02602
JUP 01850-01887	JUP 02633-02634
JUP 01888-01896	JUP 02687-02778
JUP 01915-01923	JUP 02779-02889
JUP 01941-01995	JUP 02890-02999
JUP 01998-02012	JUP 03000-03017
JUP 02034-02049	JUP 03625-03690
JUP 02050-02061	JUP 03701-03717
JUP 02062-02078	JUP 03913-03921
JUP 02171-02191	JUP 03922-03935
JUP 02232-02259	JUP 03940-03995
JUP 02286-02304	JUP 004063-04098
JUP 02315-02350	

Jupiter responded on August 18, 2011, that it had reviewed the documents at issue and would not agree to “allowing distribution to your client” as the material amounted to actual bid proposal information. The instant motion to compel followed.

Unrelated to the instant dispute, on August 31, 2011, the Court granted USIS’s Motion to Compel Discovery of Baucom Documents and ordered Defendant Baucom to produce all documents to which she had lodged objections, with the exception to those subject to a legitimate claim of attorney-client privilege. The Court’s ruling permitted certain USIS representatives to review these documents pursuant to the Protective Order entered in the case. (Document No. 65). It appears that the Court’s ruling on the Baucom documents renders any objections by Jupiter to the reclassification of the SARA documents moot. Accordingly, the SARA documents at issue shall be reclassified as “Confidential” thereby allowing their review by limited USIS personnel in accordance with the Protective Order filed in this case.

Turning to the Jupiter documents, as stated *supra*, Jupiter argues that these documents contain highly sensitive bid information which should not be disclosed to actual employees of

USIS, but rather should remain as Attorney Only Eyes, available for review only by attorneys, experts and consultants and others as listed in Paragraph 8 of the Protective Order. Given the allegations which form the basis of this litigation, the Court finds the position of Jupiter to be untenable. USIS contends that its confidential and proprietary information was misappropriated and improperly transmitted to Jupiter by Defendants. USIS is entitled to know the full extent, if any, to which its information may have been, or was, misappropriated and/or distributed by Defendants and whether such information has, in any way, been improperly used by Jupiter.

Further, included among the Jupiter AEO documents are documents that non-party Keystone has previously redesignated as “Confidential.”

For all these reasons, the Court GRANTS the Motion to Compel Re-Designation of Jupiter Documents and finds that the SARAH and Jupiter documents at issue shall be reclassified as “Confidential” thereby allowing their review by limited USIS personnel in accordance with the Protective Order filed in this case.

So **ORDERED** this 4th day of October, 2011.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

cc: Glenn C. Etelson, Esquire
Shulman Rogers
Email: getelson@shulmanrogers.com

Mark A. Willard, Esquire
Eckert, Seamans, Cherin & Mellott
Email: mwillard@eckertseamans.com

Audrey K. Kwak, Esquire
Eckert, Seamans, Cherin & Mellott
Email: akwak@eckertseamans.com

Robert V. Campedel, Esquire
Eckert, Seamans, Cherin & Mellott, LLC
Email: rcampedel@eckertseamans.com

Ryan J. Siciliano, Esquire
Eckert, Seamans, Cherin & Mellott
Email: rsiciliano@eckertseamans.com

Alexander H. Lindsay, Jr., Esquire
Lindsay, Jackson & Martin
Email: Michele@lindsaylawfirm.com

Robert Varsek, Esquire
Rosen, Rosen & Bloom
Email: robertvarsek@yahoo.com

Charles T. Rosen, Esquire
Rosen, Rosen, Bloom & Varsek
Email: rrb@csonline.net